

Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 EA-06 ISO-00 IO-10 L-02 FRB-03 OMB-01

TAR-01 SP-02 AGR-05 AID-05 CIAE-00 COME-00 INR-07

LAB-04 NSAE-00 OIC-02 SIL-01 STR-04 TRSE-00 CIEP-01

CEA-01 DODE-00 DOTE-00 FMC-01 CG-00 OFA-01 DLOS-03

FEA-01 INT-05 H-02 OES-03 EPA-01 CEQ-01 /093 W

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R 251711Z MAR 75

FM USMISSION EC BRUSSELS

TO SECSTATE WASHDC 3498

INFO ALL EC CAPITALS 477

AMEMBASSY OSLO

AMEMBASSY STOCKHOLM

AMEMBASSY TOKYO

AMCONSUL HAMBURG

LIMITED OFFICIAL USE EC BRUSSELS 2650

E.O. 11652: N/A

TAGS: ETRN, UNCTAD, EEC

SUBJECT: UN CODE OF CONDUCT FOR LINER CONFERENCES AND THE EC

REF: A. LONDON 2503 B. EC BRUSSELS 9968, DEC. 17, 1974

C. EC BRUSSELS 8320, OCT. 24, 1974

D. EC BRUSSELS 5431, JULY 19, 1974

1. SUMMARY: BECAUSE MEMBER STATES ARE STILL FAR APART ON A COMMON EC POSITION TOWARD THE UN CODE OF CONDUCT FOR LINER CONFERENCES, THE EC COMMISSION HAS PRESENTED THE EC COUNCIL WITH A DRAFT COUNCIL DECISION WHICH WOULD COMMIT THE MEMBER STATES TO REFRAIN FROM SIGNING OR RATIFYING THE CODE FOR A YEAR WHILE A COMMON POSITION IS BEING DEVELOPED. THE COMMISSION BELIEVES THAT DELAY IN SIGNING OR RATIFYING THE CODE CONVENTION BEYOND JUNE 30, THE FINAL DATE FOR
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SIGNATURE, DOES NOT PREVENT LATER ACCESSION WITH RE-

SERVATIONS. END SUMMARY.

2. AS REPORTED IN REFTELS (B-D), THE EC COMMISSION HAS BEEN ATTEMPTING TO HAVE THE MEMBER STATES REACH AGREEMENT ON A COMMON POSITION REGARDING THE UN CODE OF CONDUCT FOR LINER CONFERENCES, WHICH THE COMMISSION CONSIDERS INCOMPATIBLE IN ITS PRESENT FORM WITH SEVERAL PROVISIONS OF THE ROME TREATY. IT ALSO BELIEVES THE IMPORTANT ECONOMIC EFFECTS OF THE CODE ON THE COMMUNITY NECESSITATE A COMMON EC POSITION. THE COMMISSION WAS ABLE TO WORK OUT A GENTLEMEN'S AGREEMENT BETWEEN THE MEMBER STATES LAST NOVEMBER BY WHICH THE MEMBER STATES AGREED NOT TO SIGN OR RATIFY THE CODE CONVENTION BEFORE APRIL 30 (SEE REFTEL B). BECAUSE MEMBER STATES' POSITIONS PROVED TO BE WIDELY DIVERGENT DURING MEETINGS OF NATIONAL EXPERTS IN JANUARY AND FEBRUARY, AND MORE TIME IS NEEDED TO REACH AN AGREEMENT, THE COMMISSION HAS SENT THE EC COUNCIL A PROPOSED COUNCIL DECISION WHICH WOULD COMMIT THE MEMBER STATES TO REFRAIN FROM SIGNING, RATIFYING OR ACCEDING TO THE LINER CODE CONVENTION FOR A ONE-YEAR PERIOD FROM THE DATE OF APPROVAL OF THE DECISION. DURING THIS PERIOD THE EC COUNCIL, ACTING ON A PROPOSAL FROM THE COMMISSION, WOULD "DEFINE THE FORM OF COMMON ACTION TO BE IMPLEMENTED AS REGARDS THE POSSIBILITY OF MEMBER STATES BECOMING PARTIES TO THE CONVENTION". (COPIES OF THE DRAFT DECISION HAVE BEEN TRANSMITTED TO EUR/RPE, ATTENTION HARDING AND US MISSION OECD, ATTENTION ROGERS.)

3. THE COMMISSION IN ITS EXPLANATORY MEMORANDUM ACCOMPANYING THE PROPOSED DECISION ARGUES THAT THERE IS NOTHING LEGALLY SIGNIFICANT ABOUT JANUARY 30, 1975, THE LAST DAY FOR SIGNING THE CONVENTION. REFERRING TO THE VIENNA CONVENTION AND THE CODE OF CONDUCT ITSELF, THE COMMISSION STATES THAT ACCESSION MAY OCCUR AFTER JUNE 30 AND THAT SUCH ACCESSION MAY BE ACCOMPANIED BY RESERVATIONS A COMMISSION OFFICIAL (CARL, TRANSPORTATION) TOLD US THAT THE JUNE 30, 1975 DATE IS NEVERTHELESS SIGNIFICANT PSYCHOLOGICALLY AND IF THE MEMBER STATES REFRAIN FROM SIGNING BEFORE THEN, A COMMON POSITION WILL BE LIMITED OFFICIAL USE

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MORE LIKELY TO EVOLVE.

4. THE EXPLANATORY MEMORANDUM SETS OUT THREE WORKING HYPOTHESES WHICH WERE DISCUSSED AT THE FEBRUARY MEETING:

A) "SIGNATURE OF THE CONVENTION, WHILE RESERVING THE RIGHT TO DEFINE, LIMIT OR AMEND THE SCOPE OF CERTAIN PROVISIONS WITH REGARD TO THE MEMBER STATES AND THE

COMMUNITY BY APPROPRIATE MEANS;

B) EXCLUSION OF ANY POSSIBILITY OF THE CONVENTION'S
BEING SIGNED BY THE MEMBER STATES AND/OR THE COMMUNITY;

C) RENEGOTIATION OF THE CONVENTION IN ORDER TO PRODUCE
A TEXT COMPATIBLE WITH THE SPECIAL INTERESTS OF THE COMMON
MARKET AND OBLIGATIONS ARISING UNDER THE TREATY."

5. AT THE FEBRUARY MEETING, THE NATIONAL EXPERTS
REJECTED RENEGOTIATION AS UNREALISTIC, ALTHOUGH CARL DID NOT
EXCLUDE IT IN HIS CONVERSATION WITH US. THE EXPERTS DISAGREED
OVER THE LEGAL NECESSITY AND ECONOMIC OR POLITICAL
ADVISABILITY OF POSSIBLE SPECIFIC EC RESERVATIONS
TO THE CODE, AS WELL AS WHETHER THE MEMBER STATES SHOULD
RATIFY THE CONVENTION AT ALL. CARL TOLD US THAT EXPLORATION OF
THE NON-RATIFICATION HYPOTHESIS WOULD INVOLVE A DISCUSSION OF
PRESENT CLOSED SHIPPING CONFERENCE PRACTICES. FRANCE AND
OTHER MEMBER STATES ARE NOT SATISFIED WITH CLOSED LINER CONFERENCES
DOMINATED BY THE UK AND THE SCANDINAVIANS AND IN WHICH THEY
ONLY HAVE A SMALL PERCENTAGE OF THE TRAFFIC. IF FRANCE
COULD GET SATISFACTION ON THIS SCORE, CARL THOUGHT ITS ATTITUDE
TOWARD THE CONVENTION MIGHT BE CHANGED.

6. ANOTHER POINT MENTIONED IN THE EXPLANATORY MEMORANDUM
IS THE POSSIBILITY OF EC CONSULTATION WITH THIRD COUNTRIES.
CARL SAID THAT A COMMON POSITION ONE WAY OR ANOTHER WOULD POSE
PROBLEMS REGARDING THIRD COUNTRIES AND EVENTUALLY ARRANGEMENTS
WITH THEM WOULD HAVE TO BE WORKED OUT.

7. ACCORDING TO CARL, FRANCE, GERMANY AND BELGIUM HAVE SO
FAR REFUSED TO GO ALONG WITH THE DRAFT DECISION. HE ATTRIBUTED
THEIR RELUCTANCE TO COMMITMENTS THEY MADE TO DEVELOPING
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COUNTRIES AT GENEVA DURING THE NEGOTIATION OF THE CONVENTION.
HE SAID THE BRITISH AND THE SCANDINAVIANS ARE PUTTING HEAVY
PRESSURE ON THE GERMANS TO AGREE TO THE DECISION.
GREENWALD

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